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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,646	03/10/2004	Mathew Hayden Harper	111244.162 (US1)	4189

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60 STATE STREET
BOSTON, MA 02109

EXAMINER
RUBIN, BLAKE J

ART UNIT	PAPER NUMBER
4152	

NOTIFICATION DATE	DELIVERY MODE
11/16/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

michael.mathewson@wilmerhale.com
teresa.carvalho@wilmerhale.com
sharon.matthews@wilmerhale.com

	Application No.	**Applicant(s)**
Office Action Summary	10/797,646	HARPER ET AL.
	Examiner	**Art Unit**	
	Rubin Blake	4152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 March 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 March 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>01/13/2005</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-21 are pending in this application.

Drawings

2.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5)

because they include the following reference character(s) not mentioned in the

description: In Fig. 1, MSC 140 is not mentioned in the specification, and in Fig. 2, Error

Recovery requires a corresponding element number.

3.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5)

because they do not include the following reference sign(s) mentioned in the

description: In Figs. 3-7, all of the elements in the left margin need to have element

numbers corresponding to them (t_1, t_{1A}, t_2, Data Packet Communication, Session Re-

negotiation, and Buffer Data Packet from PDSN, Error Recovery). Corrected drawing

sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to

avoid abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. Each drawing sheet submitted after the filing date of

an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next

Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4.   Claim 19 recites the limitation "said data server". There is insufficient antecedent

basis for this limitation in the claim. It is presumed that the "said data server" is in

reference to the "packet data server," if this is the case, claim 19 should be corrected to

reflect the proper server reference.

Claim Rejections - 35 USC § 112

5.   Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Regarding claim 8, the phrase "substantially equal" renders the claim indefinite

because it is unclear what the precision of the limitations following the phrase are. See

MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

7.   With respect to claim 1, Perras discloses a method for establishing a data

communication session with a mobile subscriber in a wireless communication network

(Col. 1, lines 8-11), comprising: registering a data communication session with a packet

data server (Col. 4, lines 50-52); providing a wait time period during which the packet

data server refrains from sending a configuration request to the mobile subscriber (Col.

4, lines 55-63); and following the wait time period, sending a configuration request

signal to the subscriber to negotiate establishment of the data communication session

(Col. 4, lines 63-65).

8.   With respect to claim 2, Perras discloses the method of claim 1, further

comprising determining a fixed duration for the wait time period and providing said fixed

duration to the packet data server (Col. 4, lines 59-63).

9.   With respect to claim 6, Perra discloses the method of claim 1, wherein

registering the data session comprises registering the data session according to an A11

protocol compatible with a Point-to-Point Protocol (PPP) communication network (Col.

3, lines 27-33).

10.   With respect to claim 7, Perras discloses the method of claim 1, wherein sending

the configuration request signal comprises sending a configuration request signal

according to a protocol compatible with a Point-to-Point Protocol (PPP) communication

network (Col. 3, lines 27-33).

11.   With respect to claim 8, Perras discloses a method for communicating with a

mobile subscriber in a wireless communication network, comprising (Col. 1, lines 8-11):

registering a data session with a packet data server (Col. 4, lines 50-52); providing a

first wait time period during which the packet data server negotiates an initial

configuration with the mobile subscriber, the first wait time period substantially defining

a wait time following unsuccessful attempts to send an initial configuration request

signal to the mobile subscriber during establishment of the data session (Col. 4, lines

55-63); and following providing the first wait time period, providing a second wait time

period, different from the first wait time period, the second wait time period substantially

defining a wait time following a data communication error event before the packet data

server attempts to renegotiate the data session with the mobile subscriber (Col. 5, lines

40-47).

12.   With respect to claim 10, Perras discloses the method of claim 8, further

comprising repeatedly waiting a time equal to the first wait time period until an air link to

the mobile subscriber is successfully established (Col. 5, lines 40-47).

13.   With respect to claim 11, Perras discloses the method of claim 8, wherein

providing the second wait time period comprises providing a second wait time period

having a duration substantially equal to a default time-out duration defined by a

communication protocol controlling the data communication (Col. 4, lines 55-63).

14.   **Claims 15, 16, and 18 are rejected under 35 U.S.C. 102(e) as being**

anticipated by Lundby et al. (Pat. No. 6,993,352), hereinafter Lundby.

15.   With respect to claim 15, Lundby discloses a method for establishing a data

communication session with a mobile subscriber in a wireless communication network,

comprising (Col. 4, lines 55-63): registering a data session with a packet data server

(Col. 4, lines 55-63); sending no configuration request signal until the packet data server

receives a signal indicating that a radio air link has been successfully established to the

mobile subscriber (Col. 4, lines 55-63); and following receipt of said signal indicating

that the radio air link has been successfully established, sending a configuration request

signal to the mobile subscriber (Col. 4, lines 55-63).

16.   With respect to claim 16, Lundby discloses a method for establishing a data

communication session with a mobile subscriber in a CDMA-2000 wireless

communication network, the method comprising (Col. 1, lines 30-47): exchanging data

session registration request and reply signals between a packet control function module

and a data packet server module to register the data communication session according

to a known communication control protocol (Col. 3, lines 18-35); and preventing a

premature transmission of a data session configuration request signal from the data

packet server module to the mobile subscriber by preemptively withholding the data

session configuration request signal at the data packet server module until a triggering

event is received by the packet data server indicating that the data session

configuration request signal is to be sent to the mobile subscriber (Col. 6, lines 39-43,

lines 56-67).

17.   With respect to claim 18, Lundby discloses the method of claim 16, wherein

withholding the data session configuration request signal continues until an event-based

trigger signal is received by the packet data server (Col. 6, lines 39-43, lines 56-67).

18.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

19.   **Claims 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by**

Tripathi et al. (Pat. No. 6,862,268), hereinafter Tripathi.

20.   With respect to claim 19, Tripathi discloses a system for wireless communication,

comprising: a mobile subscriber; a packet data server; a communication network

adapted for carrying control and data packets between the mobile subscriber and the

packet data server (Col. 4, lines 27-39); a radio air link portion of said communication

network, the radio air link having associated therewith an air link establishment delay time (Col. 5, lines 21-32); and said data server including a processor that sends a configuration request signal over said communication network responsive to a trigger signal indicating that said radio air link is ready to carry said configuration request signal to said mobile subscriber (Col. 7, lines 30-48).

21.   With respect to claim 20, Tripathi discloses the system of claim 19, wherein the trigger signal comprises a time-based signal indicating that a wait time exceeding the air link establishment delay time has elapsed (Col. 6, lines 46-59).

22.   With respect to claim 21, Tripathi discloses the system of claim 19, wherein the trigger signal comprises an event-based signal indicating that the air link has been successfully established to the mobile subscriber (Col. 7, lines 30-48).

Claim Rejections - 35 USC § 103

23.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

25.   **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perras, in view of Levenson et al (Pat. No. 6,791,945) hereinafter Levenson.**

26.   With respect to claim 3, Perras discloses the method of claim 1:

Wireless communication network (Perras: Col. 1, lines 8-11)

Packet data server (Perras: Col. 4, lines 50-52)

Wait time period (Perras: Col. 4, lines 55-63);

Sending a configuration request signal (Perras: Col. 4, lines 63-65).

Perras fails to disclose a method for including a dynamic wait time, however Levenson disclose a dynamic duration for the wait time period based on a network condition and providing said dynamic duration to the packet data server (Levenson: Col. 2, lines 42-60). It would have been obvious to one skilled in the art at the time the invention was made to combine Perras with Levenson because a dynamic wait time increases the versatility of configuring users on the wireless network (Levenson: Col. 4, lines 10-21).

27.   **Claims 4, 5, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perras, in view of Kokko et al (Pat. No. 6,005,852) hereinafter Kokko.**

28.   With respect to claim 4, Perras discloses the method of claim 1. Perris fails to

disclose a method for a wait time duration between 10 milliseconds and 1 second,

however Kokko discloses a wait time period providing a wait time period having a

duration between 10 milliseconds and 1 second (Kokko: Col 9, lines 5-13). It would

have been obvious to one skilled in the art at the time the invention was made to

combine Perras with Kokko because a wait time duration between 10 milliseconds and

1 second increases the efficiency of configuring users on the wireless network (Kokko:

Col. 8, lines 49-56).

29.   With respect to claim 5, Perras discloses the method of claim 1. Perris fails to

disclose a method for a wait time duration of 100 milliseconds, however Kokko

discloses a wait time period providing a wait time period having a duration of

approximately 100 milliseconds (Kokko: Col 9, lines 5-13). It would have been obvious

to one skilled in the art at the time the invention was made to combine Perras with

Kokko because a wait time duration of 100 milliseconds increases the efficiency of

configuring users on the wireless network (Kokko: Col. 8, lines 49-56).

30.   With respect to claim 12, Perras discloses the method of claim 8:

            Wireless communication network (Perras: Col. 1, lines 8-11)

            Registering with server (Perras: Col. 4, lines 50-52)

            First wait time for configuration (Perras: Col. 4, lines 55-63)

            Second wait time for configuration (Perras: Col. 5, lines 40-47)

Perras fails to disclose a method a for a wait time between 10 milliseconds and 1 second, however Kokko discloses a wait time period providing a first wait time period having a duration between 10 milliseconds and 1 second (Kokko: Col 9, lines 5-13). It would have been obvious to one skilled in the art at the time the invention was made to combine Perras with Kokko because a wait time duration between 10 milliseconds and 1 second increases the efficiency of configuring users on the wireless network (Kokko: Col. 8, lines 49-56).

31.   With respect to claim 13, Perras discloses the method of claim 8. Perras fails to disclose a method a for a wait time of 100 millisecond, however Kokko discloses providing a wait time period providing a first wait time period having a duration of approximately 100 milliseconds (Kokko: Col 9, lines 5-13). It would have been obvious to one skilled in the art at the time the invention was made to combine Perras with Kokko because a wait time duration of 100 milliseconds increases the efficiency of configuring users on the wireless network (Kokko: Col. 8, lines 49-56).

32.   **Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perras, in view of Cheng et al (Pat. No. 6,810,263) hereinafter Cheng-263.**

33.   With respect to claim 9, Perras discloses the method of claim 8. Perras fails to disclose a method for providing a second wait time which exceeds the first wait time, however Cheng-263 discloses the method providing a second wait time period having a

duration exceeding that of the first wait time period (Cheng-263: Col. 3, lines 65-66; Col. 4, lines 1-16). It would have been obvious to one skilled in the art at the time the invention was made to combine Perras with Cheng-263 because a second wait time duration that exceeds that of the first wait time improves the efficiency of configuring users on the wireless network (Cheng-263: Col. 5, lines 3-6).

34.   **Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perras, in view of Cheng et al (Pat. No. 6,076,181) hereinafter Cheng-181.**

35.   With respect to claim 14, Perras discloses a method for communicating with a mobile subscriber in a wireless communication network (Perras: Col. 1, 8-11), comprising: registering a data session with a packet data server (Perras: Col. 4, 50-52); negotiating a data communication session with the mobile subscriber (Perras: Col. 4, 39-49). Perras fails to disclose a method for buffering data packets, however Cheng-181 discloses a method for buffering data packets in a buffer in a time period between said registering of the data session and said negotiating of the data communication session, the act of buffering said data packets preventing loss of data packets sent from the packet data server to the mobile subscriber prior to successful establishment of an air link to the mobile subscriber (Cheng-181: Col. 6, lines 64-67; Col. 7, lines 1-14). It would have been obvious to one skilled in the art at the time the invention was made to combine Perras with Cheng-181 because a buffer improves the efficiency of configuring users on the wireless network (Cheng-181: Col. 3, lines 28-37).

36.   **Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over**

Lundby, in view of Perras.

37.   With respect to claim 17, Lundby discloses the method of claim 16:

CDMA-2000 wireless network (Col. 1, lines 30-47)

Data session registration (Lundby: Col. 3, lines 18-35)

Withholding session configuration data (Col. 6, lines 39-43, lines 56-67)

Lundby fails to disclose a time-based trigger, however Perras discloses a method

wherein withholding the data session configuration request signal continues until a time-

based trigger signal is received by the packet data server (Perras: Col. 6, lines 23-34).

Conclusion

38.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

Pat. No. 6,366,779; Bender et al; 455/450, 509; 370/335

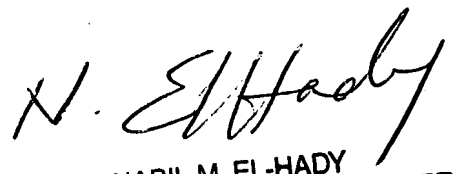Pat. No. 6,738,373; Turner; 370/352, 331

39.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Rubin Blake whose telephone number is (571) 270-

3802. The examiner can normally be reached on M-R: 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nabil El-Hady can be reached on (571) 272-3963. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

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BJR
11/08/2007

N. El-Hady

NABIL M. EL-HADY
SUPERVISORY PATENT EXAMINER